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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,500	08/29/2001	Thomas John Nelson	P1062P2P1	7274

25312 7590 10/19/2004

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EXAMINER

MAI, LANNA

ART UNIT PAPER NUMBER

3637

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/941,500

Applicant(s)

NELSON, THOMAS JOHN

Examiner

Lanna Mai

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 July 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 55-58, 63, 68 and 70-78 is/are pending in the application.
- 4a) Of the above claim(s) 63, 70-73 and 78 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 55-58, 68, 74-77 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. The amendment filed on 7/15/2004 has been entered.

Claims 63, 70-73, and 78 are nonelected claims which are withdrawn from further consideration. Claims 59-62, 64-67, 69, 79-82 have been cancelled by the amendment filed on 7/15/2004.

The terminal disclaimer filed on 7/15/2004 has been reviewed and accepted.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 55-58, 68, 74-77 are rejected under 35 U.S.C. 102 (b) as being anticipated by Swedish publication SE 8202 375-5.

Swedish publication shows in fig. 2 an elongated connector/track having a base (3), projection (5) extending vertically from the base to a first height and consists of identical right and left halves (5, 5) which are capable of being inserted into the

recesses of flooring panels as shown in fig. 1. The top portion of each half includes identical extensions wherein the combined width of the extensions is less than the width of the base. The extensions include at least one angled portion (12) obliquely sloped. The projection extends the entire length of the connector as shown in fig. 1. Two protrusions (11) extend vertically from the base to a second height, which is substantially smaller than the first height, and extend the entire length of the connector as shown in fig. 1. The protrusions spaced apart from the projection, and being located on either side of the projection beyond the lateral extent of the extensions. The protrusions each include a first tapered surface (15) and a second tapered surface (14) extending outwardly from a top portion of the protrusions. The protrusions are capable of fitting within the channels formed in the bottom surface of the flooring panels such as being shown in figs. 1 and 3. One of the tapered surfaces (14, 15) faces away from the projection (5) and extends at an oblique angle relative to the base plane. The other tapered surface faces the projection and extends at an oblique angle relative to the base plane. The flooring panels are not given any patentable weight because they are merely intended uses as they are not positively claimed.

Arguendo, assume that the protrusions of the Swedish application do not show both tapered surfaces. Claims 55-58, 68, and 74-77 can be alternatively rejected as follows:

Claims 55-58, 68, and 74-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swedish publication as applied above, and further in view of

Howorth. The Swedish publication does not show the protrusions having a second tapered surface. Howorth shows a connector (36) having protrusions (39, 44) having tapered surfaces (fig. 9) both extend at oblique angles relative to the base plane to provide better support and better mating surfaces to the panel (24). Therefore, it would have been obvious to one skilled in the art to modify the connector of the Swedish publication to include protrusions with a first and a second tapered surfaces as taught by Howorth to provide better support and better mating surfaces to the flooring panels.

Applicant's arguments filed 7/15/2004 with respect to claim 55-58, 68, 74-77 have been fully considered but they are not persuasive. Contrary to applicant's argument, the Swedish patent does disclose first (15) and second (14) tapered surfaces as shown in fig. 2 on its own, or would be modified to have tapered surfaces as taught by Howorth. Applicant further argues that his connector is designed for lateral attachment of flooring panels such that a flooring panel is laterally inserted for coupling with the projection and protrusions as the connector lies upon the support surface. This argument is not persuasive because the claims are directed to the connector per-se. How the connector is used with the flooring panels are intended uses which are given very little patentable weight. Furthermore, it is noted that the connector of the Swedish application, taken singly or in combination with the Howorth patent, is certainly capable of being used for lateral attachment of flooring panels due to the tapered surfaces on the protrusions in the same manner as applicant's connector.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lanna Mai whose telephone number is (703) 308-2486. The examiner can normally be reached on Monday-Friday from 7:00 AM to 3:30 PM. The fax phone number for the organization where this application or proceeding is assigned is (703)-872-9306. Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1113.

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

Lm

10-15-04

A handwritten signature in black ink, appearing to read "Lanna Mai", with a long horizontal flourish extending to the right.